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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALASKA WILDERNESS LEAGUE, 122 C Street NW, Suite
240, Washington, DC 20001; CENTER FOR BIOLOGICAL
DIVERSITY, 1333 N. Oracle Road, Tucson, AZ 85705-7259;
NATURAL RESOURCES DEFENSE COUNCIL, 40 West 20th
Street, New York, NY 10011; PACIFIC ENVIRONMENT, 251
Kearny St, Second Floor, San Francisco, CA 94108-4530; and
SIERRA CLUB, 85 Second Street, 2nd Floor, San Francisco, CA
94105,

Plaintiffs,

v.

BUREAU OF OCEAN ENERGY MANAGEMENT, 1849 C
Street, NW, Washington, DC 20240; and BUREAU OF SAFETY
AND ENVIRONMENTAL ENFORCEMENT, 1849 C Street,
NW, Washington, DC 20240,

Defendants.

Case No. 1:13-cv-00586

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

SUMMARY

1. In recent years, oil companies have proposed plans for major oil and gas exploration drilling activity in the Arctic Ocean. The United States Bureau of Ocean Energy Management (BOEM) and Bureau of Safety and Environmental Enforcement (BSEE), two agencies within the Department of Interior, are responsible for reviewing and approving plans for oil and gas exploration activities in the Arctic Ocean. America's Arctic is a sensitive environment, home to endangered and threatened species as well as communities that for generations have relied on the ocean's bounty for their traditional subsistence lifestyle. Due to the fragility of this special place and the resources at stake, the potential for oil and gas activities in the Arctic has created substantial public interest. Plaintiffs seek information regarding these ongoing exploration proposals and agency processes, and have made numerous requests to BOEM and BSEE for such information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, *et seq.*

2. FOIA requires that federal agencies respond to public requests for records within strict statutory time frames in order to increase public understanding of the workings of government and for access to government information. Despite Plaintiffs' attempts to advocate for greater transparency with respect to the bureaus' Arctic Ocean permitting decisions, the bureaus, rather than "adopt[ing] a presumption in favor of disclosure" as directed by President Obama,¹ have violated FOIA and frustrated Plaintiffs' requests by failing to respond within the statutory time limits.

3. Plaintiffs' FOIA requests at issue in this action concern permitting decisions for ConocoPhillips Company's proposed exploration activities in the Chukchi Sea's outer

¹ Mem. for the Heads of Exec. Dep'ts and Agencies, Freedom of Information Act, 74 Fed. Reg. 4683, 4683 (Jan. 26, 2009).

continental shelf. These permitting decisions are of great importance to Plaintiffs, their members, and the general public, and there is currently no process for obtaining documents pertaining to the permitting decisions except for FOIA. The prompt release of relevant permit applications, pre-decisional agency documents, agency analyses, agency communications with ConocoPhillips Company, and decision documents is critically important for meaningful public involvement.

4. This action is brought under FOIA in order to compel BOEM and BSEE to make a determination about whether to comply with Plaintiffs' FOIA requests and to produce promptly records wrongfully withheld.

5. Plaintiffs Alaska Wilderness League, Center for Biological Diversity, Natural Resources Defense Council, Pacific Environment, and Sierra Club are non-profit organizations concerned with BOEM's and BSEE's regulatory operations and activities in the Arctic Ocean. The organizations have scientists, lawyers, and communications professionals who analyze and evaluate information about governmental decisions affecting public resources and provide their analyses and evaluations to their affected members and the public.

6. Plaintiffs submitted three separate FOIA requests. One, submitted to BOEM on July 31, 2012, and supplemented on December 31, 2012, seeks records related to ConocoPhillips Company's proposed plan for exploration drilling (Exploration Plan) in the Chukchi Sea. Another, submitted to BSEE on July, 31, 2012, and supplemented on December 31, 2012, seeks records related to ConocoPhillips Company's proposed regional exploration oil discharge prevention and contingency plan (Spill Plan) for proposed exploration drilling in the Chukchi Sea. A third, submitted to BOEM on September 6, 2012, seeks historical records pertaining to

and forming the basis of the Department of Interior's regulations governing air quality on the outer continental shelf.

7. These requests serve to increase public understanding because the records sought detail ConocoPhillips Company's plans to explore the Chukchi Sea for oil development opportunities and also shed light on BOEM's and BSEE's analyses of ConocoPhillips Company's Exploration Plan and Spill Plan, respectively. These records will help the public understand the methods by which ConocoPhillips Company proposes to operate along with the attendant risks to human health and the environment.

8. To date, Plaintiffs have not received any records responsive to their requests.

9. BOEM's and BSEE's failure to provide documents responsive to the requests frustrates Plaintiffs' efforts to keep their members, supporters, and the general public informed about BOEM's and BSEE's oversight of oil and gas exploration drilling in the Chukchi Sea. It also limits Plaintiffs' ability to participate effectively in the public process for agency decisions. BOEM's and BSEE's failure to respond to Plaintiffs' requests violates FOIA.

JURISDICTION

10. This Court has jurisdiction pursuant to FOIA, 5 U.S.C. § 552(a)(4)(B). This Court also has federal question jurisdiction over this action under 28 U.S.C. § 1331.

11. This Court has the authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*

12. Venue is appropriate under 5 U.S.C. § 552(a)(4)(B) because the statute explicitly allows an action under FOIA to be brought in the District of Columbia.

13. This Court has the authority to award costs and attorneys' fees under 28 U.S.C. § 2412 and 5 U.S.C. § 552(a)(4)(E).

THE PARTIES

14. Plaintiff Alaska Wilderness League is a non-profit organization with approximately 100,000 members and activists. Alaska Wilderness League was founded in 1993 to advocate for protection of Alaska's public lands that are threatened with environmental degradation. Since its inception, it has taken an active role on issues related to oil and gas development in Alaska. Its Alaska office has four full-time employees and houses its Arctic Environmental Justice Program. Through advocacy and education, the Alaska Wilderness League's Arctic Environmental Justice Program works closely with communities in the Arctic affected by development. Alaska Wilderness League is committed to honoring the human rights and traditional values of the people of the Arctic, and the shared interest in protecting critical areas for future generations.

15. Plaintiff Center for Biological Diversity is a non-profit organization with offices in Alaska, Arizona, California, Florida, Minnesota, Nevada, New Mexico, New York, Oregon, Vermont and Washington. The Center's mission is to ensure the preservation, protection, and restoration of biodiversity, native species, ecosystems, public lands, and public health. The Center is actively involved in species and habitat protection issues throughout the United States, including protection of Arctic wildlife threatened by oil and gas development.

16. Plaintiff Natural Resources Defense Council (NRDC) is a non-profit environmental membership organization with more than 550,000 members throughout the United States. It has had a longstanding and active involvement in the protection of the environment in Alaska's Arctic, including the Beaufort and Chukchi seas. With its nationwide membership and a staff of lawyers, scientists, communications specialists, and other environmental professionals, NRDC gathers, analyzes, and uses information about federal

government proposals to shape its advocacy on a diverse range of land and wildlife management and resource development issues, including many related to the Arctic.

17. Plaintiff Pacific Environment is a non-profit organization based in San Francisco that protects the living environment of the Pacific Rim by promoting grassroots activism, strengthening communities, and reforming international policies. For nearly two decades, Pacific Environment has partnered with local communities around the Pacific Rim to protect and preserve the ecological treasures of this vital region.

18. Plaintiff Sierra Club is a national non-profit organization having approximately 750,000 members dedicated to the exploration, enjoyment, and preservation of the scenic and natural resources of the United States, including Alaska. The Sierra Club works towards educating and enlisting the public to protect and restore the quality of the natural environment. The Sierra Club's interests encompass a wide range of environmental issues, including wildlife conservation, public lands and waters, endangered species, clean water, and clean air. The Sierra Club has long been active in issues relating to the impacts of oil and gas leasing and development in America's Arctic.

19. Each of the Plaintiff groups monitors uses of the Chukchi Sea, the outer continental shelf, and the marine life that inhabits or migrates to the Chukchi Sea. The Plaintiff groups also monitor compliance with the laws governing management choices affecting these resources, educate their members and the public concerning the management of these resources, and advocate policies and practices that protect the natural value and sustainable resources of these areas. To achieve these organizational purposes, the Plaintiff groups require information about proposed oil and gas exploration activities so that they may participate effectively in the processes required by law for management of these public resources. The Plaintiffs' interests

and organizational purposes are adversely affected by BOEM's and BSEE's violations of the law as described in this complaint.

20. Defendant United States Bureau of Ocean Energy Management is an agency of the United States as defined by 5 U.S.C. § 552(f)(1). It is charged with overseeing all oil exploration and production drilling in federal waters in the Chukchi Sea's outer continental shelf. BOEM is required to provide public access to records in its possession consistent with the requirements of FOIA.

21. Defendant United States Bureau of Safety and Environmental Enforcement is an agency of the United States as defined by 5 U.S.C. § 552(f)(1). It is entrusted with promoting safety, environmental protection, and conservation of offshore resources of the Chukchi Sea's outer continental shelf through regulatory oversight and enforcement. BSEE is required to provide public access to records in its possession consistent with the requirements of FOIA.

STATUTORY FRAMEWORK

22. FOIA requires agencies to make information available to the public "upon any request for records." 5 U.S.C. § 552(a)(3)(A).

23. Upon receiving a request for records, an agency "shall . . . determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor" 5 U.S.C. § 552(a)(6)(A). *See also* 43 C.F.R. § 2.16.

24. FOIA specifies that in "unusual circumstances" the twenty-day time limit may be extended for up to ten working days "by written notice to the person making such request setting

forth the unusual circumstances for such extension.” 5 U.S.C. § 552(a)(6)(B)(i). *See also* 43 C.F.R. § 2.19.

25. When an agency decides to comply with a request, it shall make the records “promptly available” to the requester. 5 U.S.C. § 552(a)(6)(C)(i). *See also* 43 C.F.R. § 2.22.

26. An agency may withhold records requested under FOIA only pursuant to certain exemptions. *See* 5 U.S.C. § 552(b). *See also* 43 C.F.R. §§ 2.23-.25; 2.70.

27. If an agency fails to respond to a request within the FOIA time limits, the requester may file a complaint in a federal district court seeking to enjoin the agency from withholding records and to order production of the records requested. 5 U.S.C. §§ 552(a)(4)(B), (6)(C)(i). *See also* 43 C.F.R. § 2.57(a)(7).

STATEMENT OF FACTS

Exploration Plan Request

28. Plaintiffs Alaska Wilderness League, Center for Biological Diversity, and Natural Resources Defense Council submitted a FOIA request to BOEM’s headquarters in Washington, D.C. (BOEM Headquarters) and BOEM’s Alaska Outer Continental Shelf Region (BOEM Alaska) on July 31, 2012. These Plaintiffs submitted a request for an update on December 31, 2012, asking that documents responsive to the July 31 request be produced, as they were already overdue, and further requesting that the response be updated to include materials created or received after the receipt of Plaintiffs’ first request.

29. Plaintiffs’ requests seek information and records from BOEM pertaining to ConocoPhillips Company’s proposed exploration drilling plan in the Chukchi Sea Outer Continental Shelf, including ConocoPhillips Company’s proposed plan as submitted, consultations that BOEM may have conducted with other agencies, and BOEM’s environmental review of the exploration plan under the National Environmental Policy Act.

30. BOEM assigned two request numbers to the initial request. First, in a letter dated August 8, 2012, BOEM Headquarters acknowledged receipt of the request and assigned it reference number BOEM-2012-00202. Next, in a letter dated August 10, 2012, BOEM Alaska acknowledged receipt of the request and assigned it reference number BOEM-2002-00203.

31. In a letter dated August 20, 2012, BOEM Headquarters indicated that it would send a final reply on September 12, 2012.

32. In a letter dated September 12, 2012, BOEM Headquarters stated that it anticipated completing its response by November 12, 2012.

33. In a letter dated November 19, 2012, BOEM Headquarters revised the estimated completion date to January 7, 2013.

34. In a letter dated January 7, 2013, BOEM Headquarters stated that its response would be delayed an additional 12 weeks from the date of the letter, or approximately April 1, 2013.

35. In a letter dated January 22, 2013, BOEM Headquarters further revised the estimated completion date of the original request to “approximately five months from the date of this letter,” or approximately June 22, 2013.

36. BOEM Headquarters stated in its January 7, 2013, letter that Plaintiffs’ December 31, 2012, supplemental request was being treated as a new request and assigned it reference number BOEM-2013-00024. It estimated responding to Plaintiffs’ supplemental request in approximately six months.

37. Similarly, BOEM Alaska on several occasions communicated to Plaintiffs that there would be substantial delays in its response. In a letter dated October 15, 2012, it stated that there would be a delay in processing the request.

38. In a letter dated January 8, 2013, BOEM Alaska indicated that its response would be delayed by an additional ten weeks, or until approximately March 19, 2013.

39. BOEM Alaska stated in its January 8, 2013, letter that Plaintiffs' supplemental request dated December 31, 2012, was being treated as a new request and assigned it reference number BOEM-2013-00027. It indicated that it estimated responding to Plaintiffs' request in approximately six months.

40. To date, BOEM Headquarters and BOEM Alaska have not notified Plaintiffs of a determination whether to comply with Plaintiffs' request for records.

41. To date, Plaintiffs have not received any records responsive to their July 31, 2012, request or their December 31, 2012, supplemental request from BOEM Headquarters or BOEM Alaska.

42. Plaintiffs did not consent to any of the delays communicated by BOEM in paragraphs 31-39.

43. Plaintiffs have exhausted their administrative remedies for both the July 31, 2012, request (BOEM-2012-00202; BOEM-2012-00203) and the December 31, 2012, supplemental request (BOEM-2013-00024; BOEM-2013-00027). Administrative remedies are deemed exhausted whenever an agency fails to comply with the applicable time limits, as stated by 5 U.S.C. § 552(a)(6)(C).

Spill Plan Request

44. Plaintiffs Alaska Wilderness League, Center for Biological Diversity, and Natural Resources Defense Council submitted a FOIA request to BSEE's headquarters in Herndon, Virginia (BSEE Headquarters) and BSEE's Alaska Region (BSEE Alaska) on July 31, 2012. These Plaintiffs submitted a request for an update on December 31, 2012, asking that documents

responsive to the July 31 request be produced, as they were already overdue, and further requesting that the response be updated to include materials created or received after the receipt of Plaintiffs' first request.

45. Plaintiffs' requests seek information and records from BSEE pertaining to ConocoPhillips Company's proposed Spill Plan for proposed exploration drilling in the Chukchi Sea's outer continental shelf, including ConocoPhillips Company's submission of its Spill Plan, consultations that BSEE may be conducting with other agencies, and BSEE's environmental review of the Spill Plan under the National Environmental Policy Act.

46. BSEE assigned two request numbers to the initial request. First, in a letter dated August 10, 2012, BSEE Alaska acknowledged receipt of the request and assigned it reference number BSEE-2012-00212. Next, in a letter dated August 27, 2012, BSEE Headquarters acknowledged receipt of the request, assigned it reference number BSEE-2012-00213, and stated that there would be a delay in processing the request.

47. BSEE Headquarters stated in two letters dated January 11, 2013, that its response would be delayed an additional ten weeks from the date of the letter, or until approximately March 22, 2013.

48. BSEE Headquarters indicated in its January 11 letters that Plaintiffs' December 31, 2012, supplemental request was being treated as a new request and assigned it reference numbers BSEE-2013-00067 and BSEE-2013-00068. BSEE Headquarters indicated that it estimated responding to Plaintiffs' request in approximately six months.

49. BSEE Alaska communicated similar delays to Plaintiffs. In a letter dated October 15, 2012, it stated that there would be a delay in processing the request.

50. In a letter dated January 8, 2013, BSEE Alaska stated that its response would be delayed an additional ten weeks from the date of the letter, or approximately March 19, 2013.

51. BSEE Alaska indicated in its January 8 letter that Plaintiffs' December 31, 2012, supplemental request was being treated as a new request, and assigned it request number BSEE-2013-00060. It estimated a completion date of approximately six months from the letter.

52. To date, BSEE Headquarters and BSEE Alaska have not notified Plaintiffs of a determination whether to comply with Plaintiffs' request for records.

53. To date, Plaintiffs have not received any records responsive to their July 31, 2012, request or their December 31, 2012, supplemental request from BSEE Headquarters or BSEE Alaska.

54. Plaintiffs did not consent to any of the delays communicated by BSEE in paragraphs 46-51.

55. Plaintiffs have exhausted their administrative remedies for both the July 31, 2012, request (BSEE-2012-00212; BSEE-2012-00213) and the December 31, 2012, supplemental request (BSEE-2013-00067; BSEE-2013-00068; BSEE-2013-00060). Administrative remedies are deemed exhausted whenever an agency fails to comply with the applicable time limits, as stated by 5 U.S.C. § 552(a)(6)(C).

Air Quality Regulation Request

56. Plaintiffs Alaska Wilderness League, Center for Biological Diversity, Natural Resources Defense Council, Pacific Environment, and Sierra Club submitted a FOIA request to BOEM Headquarters and BOEM's Regional FOIA Coordinator for the Pacific Region on September 6, 2012.

57. Plaintiffs' request seeks information and records from BOEM pertaining to the Department of the Interior's regulatory program governing air quality on the outer continental shelf. The request is relevant to ConocoPhillips Company's plans for exploratory drilling in the Chukchi Sea outer continental shelf because its operations would be the first in the Arctic Ocean to be governed by Interior's air regulations since Congress transferred regulatory authority for air pollution in the Arctic Ocean from the Environmental Protection Agency to BOEM. The request seeks historical documents, including the initial rulemaking docket in creating the regulations between 1978 and 1980, proposed and withdrawn amendments to the regulations dating back to 1980-82, and proposed regulations regarding emission control requirements in the outer continental shelf offshore of California and which date from 1984 and 1986 through 1989.

58. In a letter dated September 11, 2012, BOEM Headquarters assigned reference number BOEM-2012-00212 to the request.

59. In a letter dated October 4, 2012, BOEM Headquarters indicated that it would send a final reply on or before October 19, 2012.

60. In a letter dated November 6, 2012, BOEM Headquarters indicated that it would be "unable to process [the] request within the time limits provided for in the FOIA," and that the agency anticipated completing its response on about January 22, 2013.

61. In a letter dated January 22, 2013, BOEM Headquarters revised the estimated completion date to approximately seven months from the date of the letter, or approximately August 22, 2013.

62. To date, BOEM has not notified Plaintiffs of a determination whether to comply with Plaintiffs' request for records.

63. To date, Plaintiffs have not received any records responsive to their September 6, 2012, request from BOEM.

64. Plaintiffs did not consent to any of the delays communicated by BOEM in paragraphs 59-61.

65. Plaintiffs have exhausted their administrative remedies for the September 6, 2012, request (BOEM-2012-00212). Administrative remedies are deemed exhausted whenever an agency fails to comply with the applicable time limits, as stated by 5 U.S.C. § 552(a)(6)(C).

FIRST CLAIM FOR RELIEF
BOEM's Violation of the Freedom of Information Act
with Respect to the Exploration Plan Request

66. Plaintiffs incorporate by reference each of the allegations in paragraphs 1 through 65.

67. FOIA requires agencies to make information available to the public “upon any request for records.” 5 U.S.C. § 552(a)(3)(A).

68. An agency may withhold records requested under FOIA only pursuant to certain exemptions. *See* 5 U.S.C. § 552(b).

69. Upon receiving a request for records, an agency must determine whether to comply with the request within twenty workdays and immediately notify the requester of its decision and reasons for the decision. 5 U.S.C. § 552(a)(6)(A).

70. In unusual circumstances, an agency may extend the time limit by ten workdays by notifying the requester of the extension and reasons for the extension. 5 U.S.C. § 552(a)(6)(B)(i).

71. When an agency decides to comply with a request, it shall make the records “promptly available” to the requester. 5 U.S.C. § 552(a)(6)(C)(i).

72. On July 31, 2012, Plaintiffs submitted a request under FOIA to BOEM, and supplemented that request on December 31, 2012, for records relating to ConocoPhillips Company's proposed Exploration Plan in the Chukchi Sea Outer Continental Shelf.

73. To date, BOEM has not notified Plaintiffs of a determination whether to comply with Plaintiffs' request for records.

74. To date, BOEM has not provided any records responsive to Plaintiffs' request.

75. BOEM's failure to determine within the statutory timeframe whether to disclose the requested records and promptly make non-exempt documents available in response to the July 31, 2012, request (request numbers BOEM-2012-00202 & BOEM-2012-00203) and December 31, 2012, updated request (request numbers BOEM-2013-00024 & BOEM-2013-00027) regarding the Exploration Plan is a constructive denial and wrongful withholding of records in violation of FOIA, 5 U.S.C. § 552, *et seq.*, and the Department of Interior's own regulations promulgated thereunder, 43 C.F.R. §§ 2.16, 2.19, 2.22, 2.57(a)(7).

SECOND CLAIM FOR RELIEF
BSEE's Violation of the Freedom of Information Act
with Respect to the Spill Plan Request

76. Plaintiffs incorporate by reference each of the allegations in paragraphs 1 through 65.

77. The FOIA requires agencies to make information available to the public "upon any request for records." 5 U.S.C. § 552(a)(3)(A).

78. An agency may withhold records requested under the FOIA only pursuant to certain exemptions. *See* 5 U.S.C. § 552(b).

79. Upon receiving a request for records, an agency must determine whether to comply with the request within twenty workdays and immediately notify the requester of its decision and reasons for the decision. 5 U.S.C. § 552(a)(6)(A).

80. In unusual circumstances, an agency may extend the time limit by ten workdays by notifying the requester of the extension and reasons for the extension. 5 U.S.C. § 552(a)(6)(B)(i).

81. When an agency decides to comply with a request, it shall make the records “promptly available” to the requester. 5 U.S.C. § 552(a)(6)(C)(i).

82. On July 31, 2012, Plaintiffs submitted a request under FOIA to BSEE, and supplemented that request on December 31, 2012, for records relating to ConocoPhillips Company’s Spill Plan for proposed exploration drilling in the Chukchi Sea’s outer continental shelf.

83. To date, BSEE has not notified Plaintiffs of a determination whether to comply with Plaintiffs’ request for records.

84. To date, BSEE has not provided any records responsive to Plaintiffs’ request.

85. BSEE’s failure to determine within the statutory timeframe whether to disclose the requested records and promptly make non-exempt documents available in response to the July 31, 2012, request (request numbers BSEE-2012-00212 & BSEE-2012-00213) and December 31, 2012, updated request (request numbers BSEE-2013-00060, BSEE-2013-00067, & BSEE-2013-0068) regarding the Spill Plan is a constructive denial and wrongful withholding of records in violation of FOIA, 5 U.S.C. § 552, *et seq.*, and the Department of Interior’s own regulations promulgated thereunder, 43 C.F.R. §§ 2.16, 2.19, 2.22, 2.57(a)(7).

THIRD CLAIM FOR RELIEF
BOEM's Violation of the Freedom of Information Act
with Respect to the Air Quality Regulations Request

86. Plaintiffs incorporate by reference each of the allegations in paragraphs 1 through 65.

87. FOIA requires agencies to make information available to the public “upon any request for records.” 5 U.S.C. § 552(a)(3)(A).

88. An agency may withhold records requested under FOIA only pursuant to certain exemptions. *See* 5 U.S.C. § 552(b).

89. Upon receiving a request for records, an agency must determine whether to comply with the request within twenty workdays and immediately notify the requester of its decision and reasons for the decision. 5 U.S.C. § 552(a)(6)(A).

90. In unusual circumstances, an agency may extend the time limit by ten workdays by notifying the requester of the extension and reasons for the extension. 5 U.S.C. § 552(a)(6)(B)(i).

91. When an agency decides to comply with a request, it shall make the records “promptly available” to the requester. 5 U.S.C. § 552(a)(6)(C)(i).

92. On September 6, 2012, Plaintiffs submitted a request under FOIA to BOEM for records relating to the Department of the Interior’s regulatory program governing air quality on the outer continental shelf.

93. To date, BOEM has not notified Plaintiffs of a determination whether to comply with Plaintiffs’ request for records.

94. To date, BOEM has not provided any records responsive to Plaintiffs’ requests.

95. BOEM's failure to determine within the statutory timeframe whether to disclose the requested records and promptly make non-exempt documents available in response to the September 6, 2012, request (request number BOEM-2012-00212) regarding the Department of Interior's regulations governing air quality in the outer continental shelf is a constructive denial and wrongful withholding of records in violation of FOIA, 5 U.S.C. § 552, *et seq.*, and the Department of Interior's own regulations promulgated thereunder, 43 C.F.R. §§ 2.16, 2.19, 2.22, 2.57(a)(7).

PRAYER FOR RELIEF

Therefore, Plaintiffs respectfully request that the Court:

1. Declare that BOEM and BSEE have violated FOIA by failing to determine whether to comply with Plaintiffs' requests and wrongfully withholding the requested records;
2. Enter appropriate injunctive relief directing BOEM and BSEE to produce to Plaintiffs all wrongfully withheld records pursuant to 5 U.S.C. § 552(a)(4)(B);
3. Maintain jurisdiction over this action until BOEM and BSEE are in compliance with FOIA and every order of this Court;
4. Award Plaintiffs the costs of this action, including reasonable attorney fees and other litigation costs pursuant to 5 U.S.C. § 552(a)(4)(E); and
5. Grant such other relief as the Court deems just and proper.

Respectfully submitted this 26th day of April, 2013.

/s/ Eric P. Jorgensen

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